

DEC 28 2010

Board of Vocational Nursing  
and Psychiatric Technicians

EDMUND G. BROWN JR.  
Attorney General of California  
MARC D. GREENBAUM  
Supervising Deputy Attorney General  
STEPHEN A. MILLS  
Deputy Attorney General  
State Bar No. 54145  
300 So. Spring Street, Suite 1702  
Los Angeles, CA 90013  
Telephone: (213) 897-2539  
Facsimile: (213) 897-2804

*Attorneys for Complainant*

BEFORE THE  
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. VN-2008-359

**MELINDA DIAN LOUFEK**  
4004 Garey Avenue  
Claremont, CA 91711  
Vocational Nurse License No. VN-188176

**A C C U S A T I O N**

Respondent.

Complainant alleges:

**PARTIES**

1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs (Board).

2. On or about May 3, 1999, the Board issued Vocational Nurse License No. VN-188176 to Melinda Dian Loufek (Respondent). The Vocational Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2012, unless renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Board under the authority of the following  
3 laws. All section references are to the Business and Professions Code unless otherwise indicated.

4 **STATUTORY PROVISIONS**

5 4. Section 118, subdivision (b), provides, in pertinent part, that the expiration of a  
6 license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the  
7 period within which the license may be renewed, restored, reissued or reinstated. Under  
8 section 2892.1, the Board may renew an expired license at any time within four (4) years after the  
9 expiration.

10 5. Section 2875 provides, in pertinent part, that the Board may discipline the holder of a  
11 vocational nurse license for any reason provided in Article 3 (commencing with section 2875) of  
12 the Vocational Nursing Practice Act.

13 6. Section 2878 states:

14 "The Board may suspend or revoke a license issued under this chapter [section 2840, et  
15 seq.]] for any of the following:

16 "(a) Unprofessional conduct, . . .

17 . . . .

18 "(f) Conviction of a crime substantially related to the qualifications, functions, and duties  
19 of a licensed vocational nurse, in which event the record of the conviction shall be conclusive  
20 evidence of the conviction."

21 7. Section 2878.5 states, in pertinent part:

22 "In addition to other acts constituting unprofessional conduct within the meaning of this  
23 chapter [the Vocational Nursing Practice Act] it is unprofessional conduct for a person licensed  
24 under this chapter to do any of the following:

25 . . . .

26 "(b) Use any controlled substance as defined in Division 10 of the Health and Safety  
27 Code, or any dangerous drug as defined in Section 4022, or alcoholic beverages, to an extent or in  
28 a manner dangerous or injurious to himself or herself, any other person, or the public, or to the

1 extent that the use impairs his or her ability to conduct with safety to the public the practice  
2 authorized by his or her license.

3 "(c) Be convicted of a criminal offense involving possession of any narcotic or dangerous  
4 drug, or the prescription, consumption, or self-administration of any of the substances described  
5 in subdivisions (a) and (b) of this section, in which event the record of the conviction is  
6 conclusive evidence thereof."

### 7 **REGULATORY PROVISION**

8 8. California Code of Regulations, title 16, section 2521 states:

9 "For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5  
10 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be  
11 considered to be substantially related to the qualifications, functions or duties of a licensed  
12 vocational nurse if to a substantial degree it evidences present or potential unfitness of a licensed  
13 vocational nurse to perform the functions authorized by his license in a manner consistent with  
14 the public health, safety, or welfare."

### 15 **COST RECOVERY**

16 9. Section 125.3 provides, in pertinent part, that the Board may request the  
17 administrative law judge to direct a licentiate found to have committed a violation or violations of  
18 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
19 enforcement of the case.

### 20 **CONTROLLED SUBSTANCES / DANGEROUS DRUGS**

21 10. "Ativan" is a trade name for the controlled substance Lorazepam. It is a Schedule IV  
22 controlled substance as designated by Health and Safety Code section 11057, subdivision (d)(16),  
23 and a dangerous drug pursuant to section 4022.

24 11. "Effexor" is a serotonin-norepinephrine reuptake inhibitor antidepressant. It is a  
25 dangerous drug pursuant to section 4022.

26 12. "Concerta" is a form of methylphenidate, which is primarily used to treat attention  
27 deficit disorder, and attention deficit hyperactivity disorder. It is a dangerous drug pursuant to  
28 section 4022.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Substantially-Related Convictions)**

3 13. Respondent is subject to disciplinary action under sections 490 and 2878,  
4 subdivision (f), in conjunction with California Code of Regulations, title 16, section 2521, as a  
5 result of Respondent's convictions of crimes that are substantially related to the qualifications,  
6 functions, and duties of a licensed vocational nurse, as follows:

7 a. On or about March 17, 2009, after pleading nolo contendere, Respondent was  
8 convicted of one interlineated misdemeanor count of violating Vehicle Code section 23103.5 [wet  
9 – reckless] in the criminal proceeding entitled *The People of the State of California v. Melinda*  
10 *Dian Loufek* (Super. Ct. Los Angeles County, 2009, No. 9PK00598). Respondent was placed on  
11 three years of probation with terms and conditions that included mandatory enrollment in a  
12 licensed drug and alcohol education program. The underlying factual circumstances occurred on  
13 or about November 15, 2008, when officers of the Claremont Police Department responded to the  
14 scene of a solo-vehicle traffic accident involving Respondent and her car. After observing  
15 objective signs of impairment, including slurring and swaying, the officers administered field  
16 sobriety tests. Respondent performed poorly on these tests, and some had to be discontinued due  
17 to Respondent's lack of balance. Based on Respondent's impairment, as well as her admission  
18 that she had taken the antidepressant Effexor and the sleeping aid the night before, Respondent  
19 was arrested and taken into custody.

20 b. On or about October 22, 2008, after pleading nolo contendere, Respondent was  
21 convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (a)  
22 [driving under the influence] in the criminal proceeding entitled *The People of the State of*  
23 *California v. Melinda Loufek* (Super. Ct. Los Angeles County, 2008, No. 88WW06029).  
24 Respondent was placed on three years of probation and ordered to complete a three-month drug  
25 and alcohol program. The underlying circumstances occurred on or about July 31, 2008, when  
26 Respondent was arrested by officers of the California Highway Patrol after displaying objective  
27 signs of impairment and failing all five of the field sobriety tests that were administered.

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1 Respondent admitted to having taken two Ativan pills at approximately 5:00 p.m., and one  
2 Effexor pill at approximately 9:00 a.m.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Dangerous Use of Controlled Substances)**

5 14. Respondent is subject to disciplinary action under section 2878, subdivision (a), in  
6 conjunction with section 2878.5, subdivision (b), on the grounds of unprofessional conduct, for  
7 using controlled substances in a manner dangerous to herself and others. Complainant refers to  
8 and incorporates all of the allegations contained in paragraph 13, including its subparagraphs, as  
9 though set forth fully.

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Convictions Involving Use of Controlled Substances)**

12 15. Respondent is subject to disciplinary action under section 2878, subdivision (a), in  
13 conjunction with section 2878.5, subdivision (c), on the ground of unprofessional conduct, as a  
14 result of Respondent's convictions involving the use of controlled substances. Complainant  
15 refers to and incorporates all of the allegations contained in paragraph 13, including its  
16 subparagraphs, as though set forth fully.

17 **PRAYER**

18 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
19 and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians  
20 issue a decision:

21 1. Revoking or suspending Vocational Nurse License No. VN-188176, issued to  
22 Melinda Dian Loufek;

23 2. Ordering Melinda Dian Loufek to pay the Board the reasonable costs of the  
24 investigation and enforcement of this case, pursuant to section 125.3; and

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1           3.     Taking such other and further action as deemed necessary and proper.

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4  
5     DATED: December 23, 2010



TERESA BELLO-JONES, J.D., M.S.N., R.N.  
Executive Officer  
Board of Vocational Nursing and Psychiatric Technicians  
Department of Consumer Affairs  
State of California  
*Complainant*

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